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Keeping Secrets

Protection of classified papers completely out of control

By Nicholas M. Horrock

WASHINGTON—The Department of Defense creates 16 million pieces of secret correspondence annually. There is no accurate estimate on how many millions of other "national security" secrets are engendered by the other government agencies entitled to stamp "secret" across the face of their paperwork.

About 4.2 million Americans, 2 out of every 100, have a national security clearance. They are enlisted men at military bases, secretaries in private firms in California, aides at the Treasury Department, computer clerks at the CIA and generals in the Pentagon.

Fifty years ago, what national secrets the United States thought it possessed were held by literally a handful of people in a small military and diplomatic establishment clustered around Washington.

But with the advent of World War II, the pool of information that the government has felt compelled to shroud in official secrecy has grown inexorably.

Now it is a sea, seeping into every aspect of American life. Scientific exploration in dozens of disciplines often is financed by the military, and thus secret. Colleges and universities doing defense and military work come under the rules of secrecy and background checks.

Weapons and intelligence devices in this high-technology world no longer are built by a few armories and small firms, but part and parcel of a vast network of private companies and heretofore civilian endeavors. The work is secret, and about 1.2 million civilian employees in these endeavors are subject to national security restrictions.

Economic information often is stamped secret; a large part of the information on nuclear energy is kept under wraps. The term "in our national security interest" has come to cover government decisions on everything from the sale of grain to the Soviet Union to the design of the Trident nuclear submarine.

Many people in private industry and academia argue that this phenomenon ultimately will stifle the very inventiveness and exchange of ideas that gave America its technological advantage in the first place.

Last week, William Casey, director of the Central Intelligence Agency, recommended to the Department of Justice that it prosecute the National Broadcasting Co. and one of its correspondents on espionage charges on the ground that information in one of NBC's newscasts endangered national security.

Using a threat of similar prosecution, Casey and President Reagan persuaded the editors and publisher of the Washington Post to delete parts of an article that the paper was preparing.

This is the third time in 15 years that a president has resorted to espionage laws to try to stem the flow of information. It is part of an obsession with the leaking of information that has plagued national government for 25 years.

It was a desire to stem leaks that led President Richard Nixon into Watergate. G. Gordon Liddy and Howard Hunt, the former FBI man and the CIA agent who became the central figures in the Watergate burglary, first went to work in the White House as "plumbers" assigned to find and stop "leaks."

Nixon was the first to try to criminally prosecute a former government employee for news leaks. The Nixon Justice Department brought Daniel Ellsberg to trial for leaking copies of a defense study called the Pentagon Papers to the New York Times. A mistrial was declared after it was disclosed that Nixon's "plumbers" had tried to discredit Ellsberg.

President Gerald Ford's national security advisers considered prosecuting the New York Times in two separate incidents where they thought the espionage laws could deter the publication of what they considered national security material.

President Jimmy Carter followed the same pattern and considered prosecution in several cases.

What these themes suggest is that the protection of secrets, from real enemies or from the American people, is out of control in Washington. What may be needed is not increased methods of repression or more prosecutions, but a complete rethinking of how to handle secret government information in the dwindling years of the 20th Century.

It is almost impossible, even for insiders, to know what a national security secret is.

Sen. Sam Nunn [D., Ga.] likes to tell the story of one military briefing he received that was laid out on a series of wall charts. Each wall chart carried the warning that it was classified as "secret."

One chart simply displayed the motto "We Must Not Fail." The officers who handled the briefing could not explain why the sentence had been classified "secret."

The NBC report that Casey charged last week violated espionage laws was almost identical to a report aired by the same network last November. Yet at that time, neither Casey nor any other federal official suggested it violated national security regulations.

Both of NBC's reports carried little additional information from a 1975 report in the New York Times about a similar intelligence program in which submarines entered Soviet harbors to collect information. The Ford administration considered prosecution at that time, and rejected the idea.

It obviously is unclear when a national secret ceases to be a secret, but it is abundantly clear that the fact the nation's enemies have learned something does not mean the same information then can be given to the American people.

There are hundreds of other examples of information that has been over-classified or misclassified.

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The sea of secrets is so vast that even security agencies think it has to be reduced. In hearings before a Senate subcommittee after the John Walker naval spy case surfaced last year, many security experts suggested that the U.S. must pare the list of secrets to a reasonable number that can be protected by a normal counter-intelligence effort.

The main reason there are 4.2 million Americans with special national security clearances is because that is the number needed to process the millions of so-called secrets. Once a piece of information has been deemed secret, it then cannot be handled by people who are not "cleared for secret."

This chaos has so debased the standard of secrets here that few contacts with government officials on foreign policy or national defense could be conducted without exposure of some classified fact or another.

Top-level government officials routinely pass out secret material in the form of "leaks" or "backgrounders" in order to justify administration actions. Only last month, Reagan disclosed secret information from U.S. intelligence sources to justify ordering an air attack on two Libyan cities. The action was taken after Casey and others responsible for the protection of U.S. intelligence sources and methods attended a meeting, and apparently agreed that the disclosure was useful.

Though government officials have kept public attention focused on news leaks, an enormous amount of secret technical information has been distributed to unauthorized people through the defense procurement process in the form of requests for bids and negotiations for contracts.

Only recently has the Justice Department moved to stop a long-standing practice by some defense officials of circulating secret information to certain firms to give them an advantage in bidding on a government weapon or intelligence system.

It is into this cynical and confused atmosphere that Casey has introduced the idea that news leaks are so harmful that they must be stopped by the use of espionage laws. This is a body of law designed, in the main, to punish people who give secrets to enemy governments in the time of war.

The notion that espionage laws are an appropriate way to deal with news leaks in peacetime requires an acceptance of the idea that the U.S. is in a constant state of peril from foreign attack and essentially on a war footing.

Last year, the Reagan administration took a major step in preparing the way for using the spy laws to stop news publications that it does not approve of: it won a conviction against Samuel Loring Morison.

Morison, grandson of one of the nation's most famous historians, Samuel Eliot Morison, was a civilian intelligence analyst at the Naval Intelligence Support Center just outside of Washington.

Morison took from a coworker's desk a batch of satellite photographs of a Soviet aircraft under construction at Murmansk and passed them on to Janes Fighting Ships, a directory of military weapons. He also gave the magazine two weekly intelligence reports on damage caused by an explosion at a Soviet naval base on the Kola peninsula.

With little national attention, the Justice Department was successful in obtaining the indictment and conviction of Morison under the espionage statutes. It was the first time the laws had been used in a news-leak case, and even though Morison was a government employee, it provided precedent for the use of the acts in news issues.

What seems to be happening is that, at a time when more information is being shrouded from public view through secrecy laws, the government has begun the most tactically successful venture in peacetime to deter publication through criminal statutes.

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